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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/080,947	
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	First Named Inventor	DEBORAH TUCKER	
	Art Unit	3724	
	Examiner Name	C. GOODMAN	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICATION NO.: 10/080,947

TITLE: MEMO DEVICE

APPLICANT: DEBORAH TUCKER

DATE FILED: FEBRUARY 21, 2002

EXAMINER: C. GOODMAN

DATE: FEBRUARY 3, 2005

ATTORNEY DOCKET: 1556-1

SECOND

AMENDED AND SUPPLEMENTAL
APPEAL BRIEF OF APPELLANT DEBORAH TUCKER

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REAL PARTY IN INTEREST

The real party in interest is the above-named Applicant, now Appellant Deborah Tucker, who resides at 2171 Sawkill -Ruby Road, Kingston, NY 12401.

RELATED APPEALS AND INTERFERENCES

No other appeals and no interferences exist but this brief is a second amended and supplemental brief to a brief previously filed on October 12, 2004 which amended a brief previously filed on May 29,2004.

STATUS OF CLAIMS

~~A Statement of the claims is set forth in Appendix A annexed hereto.~~

Claims 1-4 and 8-17 are pending in this Application and all of the fourteen of these claims are being appealed.

Claims 1-4 and 8-17 are set forth in Appendix A of this Appeal Brief. Claims 5, 6 and 7 have been canceled.

Claim 1 is pending and remains as amended by amendment dated October 9, 2003 to include among other changes that the paper roll may be fed in either direction to either slot.

Claim 2 is pending remains as originally filed and is pending.

Claim 3 is pending remains as originally filed and is pending.

Claim 4 is pending has been amended to include the clarification added to claim 1 and, as amended is pending.

Claim 5 has been cancelled and is not pending.

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Claim 6 has been cancelled and is not pending.

Claim 7 has been cancelled and is not pending.

Claim 8 remains as originally filed and is pending.

Claim 9 remains as originally filed and is pending.

Claim 10 remains as originally filed and is pending.

Claim 11 was amended to make a technical correction and to define the distance between the base and the writing panel at both the wide and the narrow ends and, as amended, is pending.

~~Claim 12 remains as originally filed and is pending.~~

Claim 13 remains as originally filed and is pending.

Claim 14 remains as originally filed and is pending.

Claim 15 remains as originally filed and is pending.

Claim 16 has been amended to include that the paper roll may be rotated in two directions for either slot and, as amended, is pending.

Claim 17 remains as originally filed and is pending.

STATUS OF AMENDMENTS

The first Office Action, which rejected all claims was issued on May 22, 2003.

On or about August 22, 2003, Applicant submitted a response to the Office Action of

May 22, 2003. This response was rejected by the Examiner based upon form. A

second response to the first Office Action was submitted on or about October 9, 2003.

In that Office Action, the claims were amended hopefully to meet the objections of the

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Examiner. However, the Examiner rejected all of these claims but did enter the Applicants' response. The rejection of the claims in the Response of October 9, 2003, issued by the Examiner on December 20, 2003 was a Final Rejection. These are the claims set forth in Appendix A.

On or about January 22, 2004 the Applicant submitted a further Response to overcome the Final Rejection. That response included further amendments to the claims submitted on October 9, 2003. The Response of January 22, 2004 was fully rejected by the Examiner and was not entered. The claims of the response of January 22, 2004 are ~~set forth in Appendix B but are not pending since they were not entered.~~

Following the Office Action of January 22, 2004, this Appeal ensued.

Applicant filed one amendment to which the Examiner issued a final rejection. Applicant attempted to file an amendment after final rejection but the Examiner denied entry by contending that the phrase "when the panel is mounted" was not earlier presented and thus raises new issues. It is strongly contended that no new matter was included as this language were always present in the preamble to the claims. However, the claims pending at this time are allowable without this amendment.

SUMMARY OF THE INVENTION

A memo device is provided which may be mounted either vertically or horizontally (P.5, lines 4-6) for making notations on a paper sheet fed from a paper roll 23 (P.5, line 4) which permits starting notations both at the top of the paper sheet and the open end of the roll 23. (P.5, lines 19-21). Both the wide end panel 15 and the

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narrow end panel 17 have a slot 27,35 through them. (P.6., lines 7-8) A wide end bar 29 is mounted across the writing panel 13 (P.6, lines 5-6) and the wide end bar 29 has a cutting edge adjacent to the wide end panel 15. (P.6, line 11) Means are also provided for mounting the paper roll. (P.7, lines 13-21) Accordingly a memo device is provided that can be placed on a vertical surface (P. 7, lines 8-12) and on a horizontal surface (P. 6, lines 19-21 and P.7, lines 1-4) As a result, regardless of position, writing can always be commenced at the top of the paper roll 23 which is the open end. (P.5, lines 14-21)

ISSUE

~~Does the combination of the Lane Patent, US Patent 5,432,687 and the Urquhart~~
et al Patent, US Patent 3,645,595 render Applicant's claimed invention unpatentable under 35 USC 103 (a).

The claims under appeal stand or fall together even though the claims have varying limitations. All the claims pertain to a memo device that can be mounted either vertically or horizontally for making notations on a paper sheet fed from a roll and include the further limitation of a paper roll that can be fed in two different ways so as to extend across the writing panel from opposite directions.

ARGUMENT

~~As a general argument to all pending claims, the Examiner has transversed~~
Applicant's argument that the claimed device

can be mounted vertically or horizontally. The preamble to each claim expressly defines the purpose of the claimed invention to be for use either vertically or horizontally. The content of the claims describes a device capable of use either vertically or horizontally. Neither patent cited by the Examiner even hints at such a device.

The Examiner contends that "Lane discloses the invention substantially as claimed except for a slot at the wide end." This is not correct. Lane also fails to teach a device where the direction of feed of the paper roll is reversible. Lane also fails to provide a ~~narrow end bar and shows only one such bar, namely a wide end bar.~~

Urquhart et al accordingly to the Examiner has a wide end slot but according to the specification of that patent a "channel 13", not a slot is provided and that channel is not in the wide end but rather on the writing surface. Just looking at FIG. 1 of Urquhart et al makes crystal clear that Urquhart et al does not teach a slot. If the device of Urquhart et al were hung vertically, there is no question that the paper roll would fall on the ground. Applicant's claim 1 specifically recites that the paper roll is "adjacent to the wide end panel and beneath the writing panel and for rotating and feeding the paper roll in opposite directions to both slots".

The concept of vertical and horizontal mounting is not even hinted at in either Lane or Urquhart et al. To achieve the result of a device as claimed by Applicant, the wide end slot as claimed by Applicant, would have to be created apart from the cited patents. Likewise, the reversible rotation would have to be developed. The design

using a second or narrow end bar would have been developed. Urquhart et al has a serrated edge and does not have a bar. The combination of Lane and Urquhart et al falls far short of teaching Applicant's device. Neither patent even implies Applicant's device and the benefits that it provides.

CLAIM ANALYSIS

Claim 1 is patentable over Lane in view of Urquhart et al by including both a wide end bar and a narrow end bar and "a means . . . for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel." Also, Applicant claims a slot in the wide end panel. Claim 1 pertains specifically to a memo device which may be mounted both vertically and horizontally for making rotations on a paper sheet fed from a roll. No reference of any kind shows such a device. Lane and Urquhart do not even hint at such a device.

Claim 2 is patentable for the same reasons as claim 1.

Claim 3 is patentable for the same reasons as claim 1.

Claim 4 is patentable for the same reasons as claim 1.

Claim 8 is patentable for the same reasons as claim 1.

Claim 9 is patentable for the same reasons as claim 1.

Claim 10 is patentable for the same reasons as claim 1.

Claim 11 is patentable for the same reasons as claim 1.

Claim 12 is patentable for the same reasons as claim 1.

Claim 13 is patentable for the same reasons as claim 1.

Claim 14 is patentable for the same reasons as claim 1.

Claim 15 is patentable for the same reasons as claim 1.

Claim 16 is patentable for the same reasons as claim 1.

Claim 17 is patentable for the same reasons as claim 1.

Applicant has changed from the prior position that the claims do not stand or fall together. It is now agreed that the claims will stand or fall together.

There is no doubt that claims 2 through 4 and 8 through 17 include further limitations either increase the specificity of the corresponding unique and patentable set forth in claim 1 or include known limitations such as the two end panels being parallel to one another.

Claim 1 and every additional claim pertain specifically in the preamble to a memo device that may be used vertically and horizontally. This is achieved by reversing the flow of the paper roll.

The Examiner has never shown any such device and the combination of the two devices which also back other details, fail to show such a device. Neither Lane nor Urquhart et al can be hung vertically and also be used horizontally. Nothing in either patent hints at such a result by their combination. Similarly, neither patent cited even hints at feeding the paper roll in opposite directions.

The claims of Appendix A are patentable. The claims Appendix B, which claims are not pending, are also patentable but there is no need for the claim if Appendix B in view of the clear patentability of the claims in Appendix A.

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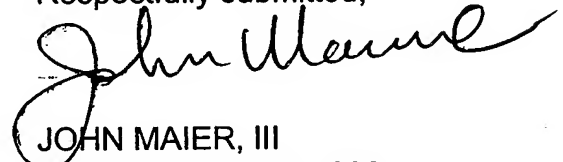
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The claims of Applicant are clearly patentably distinct over the art cited by the Examiner which art has been seriously misconstrued by the Examiner.

The Applicant is entitled to have Claims 1-4 and 8-17 allowed which action is respectfully requested and all of these claims are being appealed.

Respectfully submitted,



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APPENDIX A

1 (Pending). A memo device which may be mounted ~~either~~ both vertically ~~or~~ and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

a writing panel inclined to the base panel;

a narrow end panel having a slot through it;

~~a wide end panel having a slot through it, the writing panel being mounted on the~~
narrow end panel and the wide end panel;

~~a narrow end bar mounted across the writing panel slightly above the writing panel,~~
the narrow end bar having a cutting edge adjacent to the narrow end;

~~a wide end bar mounted across the writing panel slightly above the writing panel,~~
the wide end bar having a cutting edge adjacent to the wide end; and

~~a paper roll; and~~

means for mounting the paper roll adjacent to the wide end panel and beneath the writing panel and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel.

2 (Pending). A memo device according to claim 1 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

3 (Pending). A memo device according to claim 1 wherein the means for mounting

the paper roll includes a pair of opposing journals and a spindle mounted in the journals.

4 (Pending). A memo device which may be mounted ~~either~~ both vertically ~~or~~ and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

~~two side panels, each side panel having a narrow end edge and a wide end edge,~~
~~the wide end edges being larger than the narrow end edges~~ mounted on the base panel;

~~a writing panel mounted on the two side panels along the writing edges~~ at an incline
to the base panel;

a narrow end panel mounted between the two side panels ~~along the narrow edges,~~
and between the writing panel and the base panel, the narrow end panel having a slot through it;

a wide end panel mounted between the two side panels ~~along the wide edges,~~ the
side end panel having a slot through it, the distance between the base panel and the
writing panel being greatest at the wide end panel and being closest at the narrow end
panel;

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent to the wide end; and

means for mounting the paper roll adjacent the wide end panel and beneath the writing panel and between the side panels, and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel and to the slot in the narrow end panel.

~~5-(Cancelled)-A memo device according to claim 4 wherein the two side panels~~
each has a base edge, each writing edge inclined to a base edge.

6. (Cancelled) A memo device according to claim 4 wherein the two side panels each has a base edge, each writing edge being inclined to a base edge; and

A base panel mounted on the side panels along the base edge.

7. (Canceled) A memo device according to claim 4 wherein the side panels are substantially parallel to one another.

8 (Pending). A memo device according to claim 4 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

9 (Pending). A memo device according to claim 4 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels

10 (Pending). A memo device according to claim 4 wherein the means for mounting the paper roll between the side panels includes pair of opposing journals

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mounted on the side panels and a spindle mounted in the journals.

11(Pending). A memo device which may be mounted ~~either~~ both vertically ~~or~~ and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:
a base panel;

~~two side panels, each side panel having a base edge, a writing edge, a narrow end edge and a wide end edge, the wide end edges being larger than the narrow end edges, the writing edges being inclined to the base edges~~ mounted on the base panel;

~~a base panel mounted on the two side panels along the base edge;~~

~~a writing panel mounted on the two side panels opposite from the base panel and at an angle to the base panel along the writing edges;~~

~~a narrow end panel mounted between the base panel and the writing panel and between the two side panels along the narrow edges, the narrow end panel having a slot through it adjacent to the base panel;~~

~~a wide end panel mounted between the base panel and the writing panel and between the two side panels along the wide edges, the side end panel having a slot through it adjacent to the base panel, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel ;~~

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent to the wide end; and

journals mounted between the writing panel and the base panel;

a spindle mounted in the journals;

a paper roll mounted on the spindle to rotate in one direction to the slot in the narrow end panel and to rotate in the opposite direction to the slot in the wide end panel;

12 (Pending). A memo device according to claim 11 wherein the side panels are substantially parallel to one another.

13 (Pending). A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

14 (Pending). A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels.

15 (Pending). A memo device according to claim 11 wherein the means for mounting the paper roll between the side panels includes a pair of opposing journals mounted on the side panels and a spindle mounted in the journals.

16 (Pending). A memo device which may be mounted ~~either~~ both vertically or

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and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel:

~~two side panels, each side panel having a base edge, a writing edge, a narrow end edge and a wide end edge, the narrow end edge and the wide end edge being substantially parallel to one another and generally being at right angles to the base edges panel, the wide end edges being larger than the narrow end edges, the writing edges being inclined to the base edges, the side panels being substantially parallel to one another and having opposing journals located toward the wide end edges and between the writing edges and the base edges;~~

~~a base panel mounted on the two side panels along the base edges;~~
journals

a writing panel mounted on the two side panels opposite from the base panel
and at an angle to the base panel ~~along the writing edges;~~

a narrow end panel mounted between the base panel and the writing panel and
between the two side panels ~~along the narrow edges~~, the narrow end panel having a slot through it adjacent the base panel;

a wide end panel mounted between the base panel and the writing panel and

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between the two side panels ~~along the wide edges~~, the side end panel having a slot through it adjacent the base panel, the narrow end panel and the wide end panel being substantially parallel to one another and being generally at right angles to the side panels, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel;

~~a narrow end bar mounted on the side panels and across the writing panel~~
slightly above the writing panel, the narrow end bar having a cutting edge adjacent the narrow end;

a wide end bar mounted on the side panels and across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent the wide end;
and

journals mounted between the base panel and the writing panel;

a spindle having a mounting pin at each end, one of the mounting pins being spring loaded, the mounting pins being mounted in the journals; and

a paper roll mounted on the spindle to rotate in one direction to the slot in the narrow end panel and to rotate in the opposite direction to the slot in the wide end panel.

17 (Pending). A memo device according to claim 16 wherein the base panel is slidably mounted on the two side panels.

APPENDIX B

The following claims were submitted by an amendment after final dated January 19, 2004. None of these claims were entered by the Examiner and thus none are pending.

1 (Currently Amended). A memo device which may be mounted both vertically and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll; said memo device comprising:

a base panel;

a writing panel inclined to the base panel;

a narrow end panel having a slot through it;

a wide end panel having a slot through it, the writing panel being mounted on the narrow end panel and the wide end panel;

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent to the wide end; the slot in the wide end panel being adjacent to the base panel; and

means for mounting the paper roll adjacent to the wide end panel and beneath the writing panel and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel when the base panel is mounted vertically

and to the slot in the narrow end panel when the base panel is mounted horizontally.

2 (Original). A memo device according to claim 1 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

3 (Original). A memo device according to claim 1 wherein the means for mounting the paper roll includes a pair of opposing journals and a spindle mounted in the journals.

4 (Currently Amended). A memo device which may be mounted both vertically and horizontally for making notations on a paper sheet fed from a paper roll which ~~permits starting notations both at the top of the paper sheet and the open end of the~~ roll, said memo device comprising:

a base panel;

two side panels mounted on the base panel;

a writing panel mounted on the two side panels at an incline to the base panel;

a narrow end panel mounted between the two side panels and between the writing panel and the base panel, the narrow end panel having a slot through it;

a wide end panel mounted between the two side panels, the side end panel having a slot through it, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel;

a narrow end bar mounted across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel,

the

wide end bar having a cutting edge adjacent to the wide end; and

means for mounting the paper roll adjacent the wide end panel and beneath the writing panel and between the side panels, and for rotating and feeding the paper roll in opposite directions to the slot in the wide end panel when the base panel is mounted vertically and to the slot in the narrow end panel when the base panel is mounted horizontally.

5 (Cancelled).

6. (Cancelled).

~~7. (Canceled).~~

8 (Original). A memo device according to claim 4 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

9 (Original). A memo device according to claim 4 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels

10 (Original). A memo device according to claim 4 wherein the means for mounting the paper roll between the side panels includes pair of opposing journals mounted on the side panels and a spindle mounted in the journals.

11(Currently Amended). A memo device which may be mounted both vertically and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

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two side panels mounted on the base panel;

a writing panel mounted on the two side panels opposite from the base panel
and at an angle to the base panel;

a narrow end panel mounted between the base panel and the writing panel and
between the two side panels along the narrow edges, the narrow end panel having a
slot through it adjacent to the base panel;

a wide end panel mounted between the base panel and the writing panel and
~~between the two side panels along the wide edges, the side end panel having a slot~~
through it adjacent to the base panel, the distance between the base panel and the
writing panel being greatest at the wide end panel and being closest at the narrow end
panel ;

a narrow end bar mounted across the writing panel slightly above the writing
panel, the narrow end bar having a cutting edge adjacent to the narrow end;

a wide end bar mounted across the writing panel slightly above the writing panel,
the wide end bar having a cutting edge adjacent to the wide end; and

journals mounted between the writing panel and the base panel

a spindle mounted in the journals;

a paper roll mounted on the spindle to rotate in one direction to the slot in the
narrow end panel when the base panel is mounted horizontally and to rotate in the
opposite direction to the slot in the wide end panel, when the base panel is mounted
vertically, the base panel including means for mounting the base panel vertically;

12 (Original). A memo device according to claim 11 wherein the side panels are substantially parallel to one another.

13 (Original). A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another.

14 (Original). A memo device according to claim 11 wherein the narrow end panel and the wide end panel are substantially parallel to one another and are substantially at right angles to the side panels.

~~15 (Original). A memo device according to claim 11 wherein the means for mounting~~
the paper roll between the side panels includes a pair of opposing journals mounted on the side panels and a spindle mounted in the journals.

16 (Currently Amended). A memo device which may be mounted both vertically and horizontally for making notations on a paper sheet fed from a paper roll which permits starting notations both at the top of the paper sheet and the open end of the roll, said memo device comprising:

a base panel;

two side panels being substantially parallel to one another and generally being at right angles to the base panel, the side panels being substantially parallel to one another;

journals

a writing panel mounted on the two side panels opposite from the base panel and at an angle to the base panel;

a narrow end panel mounted between the base panel and the writing panel and between the two side panels, the narrow end panel having a slot through it adjacent the base panel;

a wide end panel mounted between the base panel and the writing panel and between the two side panels, the side end panel having a slot through it adjacent the base panel, the narrow end panel and the wide end panel being substantially parallel to one another and being generally at right angles to the side panels, the distance between the base panel and the writing panel being greatest at the wide end panel and being closest at the narrow end panel;

a narrow end bar mounted on the side panels and across the writing panel slightly above the writing panel, the narrow end bar having a cutting edge adjacent the narrow end;

a wide end bar mounted on the side panels and across the writing panel slightly above the writing panel, the wide end bar having a cutting edge adjacent the wide end;

journals mounted between the base panel and the writing panel;

a spindle having a mounting pin at each end, one of the mounting pins being spring loaded, the mounting pins being mounted in the journals; and

a paper roll mounted on the spindle to rotate in one direction to the slot in the narrow end panel when the base panel is mounted horizontally and to rotate in the opposite direction to the slot in the wide end panel, when the base panel is mounted vertically, the base panel including means for mounting the base panel vertically.

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17 (Original). A memo device according to claim 16 wherein the base panel is slidably mounted on the two side panels.

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